

On 1 June 2015, *the Criminal Procedure Amendment (Domestic Violence Complainants) Act 2014* (NSW) will come into force. The legislation will allow for video or audio recorded statements, taken from domestic violence 'complainants' (victims of domestic violence offences), to be admitted as all or part of their evidence in chief during a defended hearing for charges and associated ADVO applications. There will be no need for written statements to be taken from complainants if a recorded statement has been obtained. The changes to the law are being referred to as 'Domestic Violence Evidence in Chief' (DVEC).

This legislation will have a number of advantages for victims:

- Reduced trauma for complainants in recounting evidence in front of offenders.
- Reduced difficulty in remembering details of incidents at a later court date as the recording will be played before any additional oral evidence is given by the complainant.
- An increased ability of complainants to give an accurate account of what happened referable to the scene of the offence.
- Bring the demeanour and experience of the complainant into the court room.
- Reduce or eliminate intimidation on the complainant to change their evidence.
- Increased rates of early pleas of guilty.
- Time savings for victims in giving statements.

**Who can give evidence by way of DVEC recording?** Complainants against whom a domestic violence offence is alleged to have been committed.

**When must the recording be made?** As soon as practicable after the commission of the offence.

**Do police need the complainant's consent?** Yes, police will need their informed consent. This means that complainants will be told that they do not have to consent to the recording being made. It will be the complainant's choice.

**Do police have to take DVEC statements for all DV offences?** No, police can still take typed or notebook statements

**Do prosecutors need the complainant's consent to play the recording at court?** No, prosecutors must consult complainants before making a decision to play the recording at court, but it is the prosecutor's decision to play the recording taking into account a number of factors including any evidence of intimidation.

**Will defendants get a copy of the video?** The legislation is clear that **defendants are not to be given** copies of video recorded statement. Instead, police are only obliged to serve an extract of the audio from the recording on defendants.

**Solicitors/Barristers:** Police can serve the defendant's legal representative with a copy of the video. However, the law makes it an offence for a legal representative –or another person- to give a copy of the video to a defendant.

**Legally unrepresented defendants:** If the defendant is unrepresented police must, as far as is reasonably practicable, ensure that they provide a defendant with an opportunity to view the DVEC video recording at a police station. Such a viewing will be supervised by police.

**Additional evidence:** If police, at a later date, become aware of additional evidence that needs to be taken from a complainant then there will be a need for a written statement to cover that additional evidence.

**Will complainants still have to attend court for defended hearings?** While complainants can rely upon the recording to give all or part of their evidence of what happened to the court, they are still required to attend a defended hearing and be cross examined.

## **Domestic & Family Violence Team- NSW Police Force**